

The Honorable Jim Rogers
Hearing Date: December 7, 2018
Hearing Time: 10:00 a.m.
With Oral Argument

SUPERIOR COURT OF WASHINGTON
FOR KING COUNTY

SUPERION, LLC, a Delaware limited liability
company,

Plaintiff,

v.

CITY OF SHORELINE, Washington, and
REBECCA BURNSIDE, an individual,

Defendants.

Case No. 18-2-27746-9 SEA

**[PROPOSED] ORDER GRANTING
PLAINTIFF'S MOTION FOR
PRELIMINARY INJUNCTION**

THIS MATTER having come before the Court on December 7, 2018, on the Court's November 5, 2018 Order Granting Plaintiff's Motion for Temporary Restraining Order and Order to Show Cause, and the Court having considered Plaintiff's Motion for Temporary Restraining Order and Order to Show Cause (the "Motion"), the Declaration of Karen Colvin in Support of the Motion, the Declaration of Anthony Todaro in Support of the Motion, the records and pleadings on file, and oral argument of counsel, the Court finds as follows:

1. Sufficient and proper notice of this hearing was provided to Defendants City of Shoreline (the "City") and Rebecca Burnside.

2. On October 17, 2018, the City advised Superion that the City had received a Public Records Act request for a copy of Superion's bid proposal in response to the City's

[PROPOSED] ORDER GRANTING PLAINTIFF'S
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1 Request for Proposal #8533 for Software and Implementation Services for Financial and
2 Human Resources Software Selection Project (the “RFP”). The City further stated in the
3 communication that it would disclose the record in full if it did not receive a court order
4 preventing it from doing so.

5 3. Superion has shown that its RFP Response contains proprietary and confidential
6 information (“Protected Information”). The Protected Information is identified within Exhibit
7 D to the Declaration of Karen Colvin.

8 4. Superion has shown that it has a clear legal or equitable right in preventing
9 disclosure of its RFP Response.

10 5. The Superion RFP Response is protected from disclosure by Washington’s
11 Uniform Trade Secret Act (“UTSA”). RCW 19.108. The Superion RFP Response contains
12 Protected Information that is not publicly available and has significant independent economic
13 value to Superion. Superion has shown that it engages in reasonable efforts to maintain the
14 secrecy of the Protected Information.

15 6. The Superion RFP Response is protected from disclosure because it contains
16 proprietary data, trade secrets, and other information that relate to Superion’s unique methods
17 of conducting business under RCW 42.56.270(11).

18 7. Superion has a reasonable concern of immediate invasion of its rights by
19 disclosure of confidential and proprietary materials and is entitled to preserve the status quo
20 regarding those materials until this matter is resolved.

21 8. Superion has shown that, absent entry of a preliminary injunction, it will suffer
22 immediate and substantial harm because its challenge to such disclosure would become moot
23 and it would be denied the right to challenge the legality of the City’s disclosure of such
24 information.

1 9. Superion has shown that the public has an interest in maintaining the
2 confidentiality of the Superion RFP Response, and that the public interest would be harmed by
3 disclosure of the Superion RFP Response.

4 10. Superion has shown that vital governmental interests would be compromised by
5 disclosing the Superion RFP Response, as doing so would create a chilling effect for future
6 respondents to state and local requests for proposals.

7 11. The balance of relative interests of the parties and the interests of the public
8 weighs in favor of Superion as it has an interest in preserving the confidential and proprietary
9 nature of the Superion RFP Response. Neither the City nor Ms. Burnside will suffer any
10 prejudice by the temporary enjoinder of the public disclosure pending final resolution of this
11 matter.

12 12. The Court, therefore, based on the foregoing, determines that a preliminary
13 injunction order should be issued.

14 NOW, THEREFORE, IT IS HEREBY ORDERED:

15 1. A preliminary injunction is GRANTED.

16 2. Defendant City of Shoreline, and its agents, servants, employees, attorneys, all
17 persons acting in active concert and participation with the City who receive actual notice of this
18 order, are hereby RESTRAINED AND ENJOINED from publicly disclosing any of the
19 Superion RFP Response described in Exhibit D to Ms. Colvin's declaration.

20 3. This Preliminary Injunction Order is binding on the parties to this action, their
21 officers, directors, managers, employees, agents, agencies, and other persons and entities
22 associated with or acting on behalf of or in concert with one or more of the foregoing persons
23 who receive actual notice of this Preliminary Injunction Order.

24 4. Pursuant to CR 65(c), I find that neither the City of Shoreline nor Ms. Burnside
25 will suffer any costs or damages should it later be found that the City was wrongfully restrained
26

1 from transferring certain portions of Superion's RFP Response to Ms. Burnside, and that
2 Superion is therefore not required to provide security to the Clerk of the Court.

3 5. This Preliminary Injunction Order shall expire upon final resolution of the
4 above-captioned lawsuit.

5
6 DATED this _____ day of December, 2018 at Seattle, Washington.

7
8 BY: _____
9 JUDGE ROGERS

10 Presented by:

11
12 s/ Anthony Todaro
13 Anthony Todaro, WSBA No. 30391
14 s/ Jeffrey DeGroot
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23 Attorneys for Plaintiff
24
25
26

CERTIFICATE OF SERVICE

I declare that on December 5, 2018, I caused a true and correct copy of the foregoing to be served on the following in the manner indicated:

Margaret King, WSBA No. 34886 City Attorney Julie Ainsworth-Taylor, WSBA No. 36777 Assistant City Attorney SHORELINE CITY ATTORNEY'S OFFICE 17500 Midvale Avenue N. Shoreline, WA 98133-4905 Tel: 206.801.2223 Fax: 206.801.2781 E-mail: mking@shorelinewa.gov E-mail: jainsworth-taylor@shorelinewa.gov Attorneys for Defendant City of Shoreline	<input type="checkbox"/> Via Hand Delivery <input checked="" type="checkbox"/> Via U.S. Mail <input checked="" type="checkbox"/> Via E-mail <input checked="" type="checkbox"/> Via the Court's E-Service Device
Rebecca Burnside E-mail: 61702-21577344@requests.muckrock.com	<input type="checkbox"/> Via Hand Delivery <input type="checkbox"/> Via U.S. Mail <input checked="" type="checkbox"/> Via E-mail <input type="checkbox"/> Via the Court's E-Service Device

I declare under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Dated this 5th day of December, 2018.

s/ Rachel Evans
Rachel Evans, Legal Practice Specialist

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